

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 30, 2006 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #06040

Updated Staff Report August 21, 2006

PROPOSAL: To change the zoning on approximately 36 blocks within the 40th and "A" Street Neighborhood from B-1 Local Business, R-6, R-5 and R-4 Residential to R-2 Residential and from B-1 Local Business to R-4 Residential near 47th and Randolph Street.

LOCATION: This area is generally located in the north and west portions of an area bounded by Randolph, 33rd, 48th, and "A" Streets.

LAND AREA: 158 acres, more or less.

CONCLUSION: This neighborhood contains a large number of affordable single family homes with nearly a quarter of the dwelling units in duplex use. Overall there is a good mix of dwelling uses with a higher than average overall density of 6 dwelling units per acre. Approval of this change of zone would preserve the current development pattern, limit the potential for increasing housing density in an area with a fixed amount of infrastructure and parking and may encourage home-ownership.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION:

(See legal description at end of report)

EXISTING ZONING: B-1 Local Business, R-4, R-5, and R -6 Residential

EXISTING LAND USE: Single-, Two-, and Multiple-family dwellings

SURROUNDING LAND USE AND ZONING:

North:	Single, Two-, and Multiple-family dwellings	R-2 and R-4 Residential (proposed for change to R-2)
South:	Single, and Two-family dwellings	R-2 Residential
East:	Single, and Two-family dwellings Commercial	R-2 Residential B-1 Local Business
West:	Single, and Two-family dwellings Commercial	R-4 Residential B-3 Commercial

HISTORY:

Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling, C Multiple Dwelling, D Multiple Dwelling, G Local Business, and I Commercial. As a result of the update, the zoning changed to R-4 Residential, R-5 Residential, R-6 Residential, B-1 Local Business, and B-3 Commercial, which substantially reflected the previous zoning.

HISTORY OF OTHER RESIDENTIAL DOWNZONING:

- Apr 2005 Change of Zone #05021 from B-3 Commercial and R-4, R-5, and R-6 Residential to R-5, R-4, and R-2 Residential was approved for an area within the University Place Neighborhood. Density was 10.7 units/acre.

- Apr 2005 Change of Zone #05014 from R-4, R-5, R-6, and R-7 Residential to R-2 Residential was approved for an area within the Near South Neighborhood. Density was 7.6 units/acre.

- May 2004 Change of Zone #04026 from R-4 to R-2 was approved for an area within the Irvingdale/Country Club Neighborhood. Density was 4.9 units/acre.

- Jan 2004 Change of Zone #3424 from R-4, R-5, and R-6 Residential to R-2 Residential was approved for an area within the Everett Neighborhood. Density was 4.1 units/acre.

- Sept 2003 Change of Zone #3416 from R-4 Residential to R-2 Residential was approved for an area within the Witherbee Neighborhood. The Planning Department suggested the issue of downzoning areas within established neighborhoods should be further studied. Density was 3.8 units/acre.

- Aug 2003 Change of Zone #3412 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park Neighborhood. Density was 5.2 units/acre.

- Apr 2003 Change of Zone #3397 from R-4 Residential to R-2 residential was approved within the existing Franklin Heights Neighborhood Landmark District.

- Oct 2002 Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood Landmark District. The Planning Department referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods.

- Feb 2002 Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park Neighborhood.
- Jun 1995 Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area of the Near South Neighborhood located at 27th and Washington Streets.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan shows the requested area primarily as Urban Residential, with Commercial designations generally where commercial uses are currently located. (F 25)

COMP PLAN SPECIFICATIONS IN SUPPORT OF THIS CHANGE OF ZONE:

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The ***Overall Guiding Principles*** for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The ***Guiding Principles for Existing Neighborhoods*** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

OTHER RELEVANT COMP PLAN SPECIFICATIONS:

The ***Guiding Principles for the Urban Environment: Overall Form*** include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

Strategies for New Residential Areas

Structure incentives to encourage more efficient residential and commercial development to make greater utilization of the community's infrastructure. (F 72)

One **Quality of Life Asset** from the **Guiding Principles from the Comprehensive Plan Vision** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln’s great strengths and their conservation is fundamental to this plan. (F 15)

The **Guiding Principles for the Urban Environment: Residential Neighborhoods** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (F 73)

ANALYSIS:

1. This is a request by the 40th and “A” Street Neighborhood Association to change the zoning by:
 - approximately 36 blocks from R-4 Residential to R-2 Residential which is solely in single family and duplex use with over 800 dwelling units
 - 4 lots from R-5 to R-2 Residential which are currently occupied by a four-plex and a three-plex
 - 1 lot from R-6 to R-2 Residential which is currently occupied by a four-plex
 - 2 lots from B-1 Local Business to R-2 Residential with one lot in use by a church and lot occupied by a single family house that is zoned half B-1 Local Business and half R-2 Residential
 - a few lots from B-1 Local Business to R-4 Residential along both sides of 47th Street, south of Randolph that are occupied by multi-family uses including duplexes, a three-plex, six-plex and a small part of a 128 unit apartment complex
2. This request is made “to protect the residential characteristics of [the] neighborhood.” Applicant states that the number of conversions from single-to two-family homes has reached a point where the additional density has begun to create negative consequences for the neighborhood residents.
3. The 40th & A Neighborhood Association has conducted several neighborhood informational meetings prior to the Planning Commission public hearing in order to inform residents. Planning staff attended these informational on April 25th and August 17th. All property owners were mailed a notice of the informational meeting on April 20th by the neighborhood and on August 4th by the City. In addition, notice letters of the Planning Commission hearing were sent to over 1,000 property

owners by the City on June 23rd and in the August 4th mailing – which was 4 weeks prior to the August 30th second public hearing.

The initial application has been amended to delete two houses zoned B-1, one at 834 S. 48th Street and one 3309 B Street. Two adjacent vacant lots on B Street were also deleted from the request since the downzoning would not make any difference to these two 40 feet wide lots – with either R-2 or R-4 they could only be used for a duplex or one single family. In addition, the owner of the adjacent commercial property requested that their future use, including potential for use as parking for the adjacent commercial, be considered as part of a future separate application. These lots are at the very edge of the district and are adjacent to B-3 zoning to the west and south.

4. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.

- **Safety from fire, flood and other dangers.**
No apparent impact.
- **Promotion of the public health, safety, and general welfare.**
This proposal appears to coincide with some policies and guidelines enumerated in the Comprehensive Plan, while other policies and guidelines are neutral or mixed on this proposal.
- **Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.**
The housing within this proposed change of zone is predominantly a mixture of single- and two-family dwellings, with several properties used for multiple-family dwellings or churches. There are 610 single-family, 114 two-family (228 units) and 6 multiple-family (148 units) buildings.

The two-family dwellings are dispersed throughout the proposed boundaries, but are particularly focused in the area defined by 37th, 40th, Randolph, and "F" Streets. Outside of this area, every other block has more single-family than two-family dwellings, with several blocks having only single-family uses.

- **Conservation of property values.**
It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes due to the increased lot area

requirements, or redeveloped for apartments. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values. Higher density residential zoning can create uncertainties that tend to drive owner-occupants from a neighborhood and promote conversion of single-family houses and lots to multiple-family use. However, downzonings discourage new multiple-family development.

- **Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Plan identifies Lincoln’s commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. These concurrent goals often pose as competing arguments in neighborhood downzone requests.

5. There are several differences between the R-2, R-4, R-5, and R-6 district regulations. The table at the end of this report shows the requirements for residential uses in each district.
6. The uses allowed in these districts are quite similar. The permitted uses in the R-2 and R-4 districts do not include multiple-family or townhouse dwellings, as found in the R-5 and R-6 districts. The R-2 district conditional uses require a greater separation between group homes, and allow a less densely occupied domestic shelter than the other districts. Special permitted uses vary by district.
7. All new construction of principal buildings in residential districts within the 1950 city limits are required to meet the City of Lincoln Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards apply to this neighborhood.

Nonstandard Uses

8. LMC §27.61.040 outlines the nonconforming use regulations. In general, a nonconforming use may be continued, but not expanded or enlarged. If the use is damaged beyond 60% of its value, or if the use is discontinued for two years or more, any rebuilding or new use of the property must conform to the setback and height regulations. There are 5 properties that are now nonconforming. However, these are all residential uses in the B-1 district, which will no longer be nonconforming if this change is approved.

9. LMC §27.03.460 defines nonstandard lots as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
10. LMC §27.61.090 provides that nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or "if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space..."
11. The R-2 district regulations provide that "multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses]." This rule allows multiple-family dwellings built prior to May 8, 1979 to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.

Proposed Change of Zone #06048 would amend this stipulation to provide that multi-family built after 1979 could also be reconstructed or altered. This amendment is tentatively scheduled for Planning Commission hearing on September 13th.

12. Therefore, any use that becomes nonstandard may be rebuilt by right, even though the lot is too small, if it will meet the setback requirements of the R-2 district. This may result in a slightly different building footprint, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.
13. There are a couple of special permits available for nonstandard uses as well. One permit allows a nonstandard single- or two-family structure to extend into a required yard up to the extent to which a portion of it already does. Another special permit allows nonstandard, and even nonconforming, uses to be rebuilt to the setbacks existing at the time the use was destroyed. Neither of these special permits can be used to allow a standard use to occupy a required yard setback.
14. There are 22 uses that are currently nonstandard, compared to 230 uses that would be nonstandard if this change is approved. Proposed Change of Zone #06048 would also clarify that lots that do not meet the lot area and width requirement could be used for a single family use without being considered as nonstandard. The same amendment would clarify that existing duplexes with less lot area and width would also not be nonstandard.

15. This area as a whole appears to be fully built. There appears to be no more than 2 vacant lots available, nor are there any large lots that could be accumulated and combined to produce an area large enough for multiple-family development. Therefore, the primary opportunity for additional two- or multiple-family residences appears to be converting existing single-family dwellings.
16. This neighborhood has reached an appropriate mix of single-, two-, and multiple-family residences. The combined density for the blocks under consideration is 6.2 units per acre, which compares to densities of 3.8 to 10.7 units per acre in other neighborhoods where R-2 downzoning was approved under the current 2025 Comprehensive Plan.
17. At the time of this report, Applicant had submitted 22 signatures on petitions in support of this request.

Analysis of Individual Changes of Zones:

18. B-1 Local Business to R-2 Residential includes a church on one lot at 40th and Randolph west of the new restaurant, also zoned B-1. The church is a permitted use in the B-1 and R-2. The B-1 has a 20 foot front yard setback and the R-2 has 25 foot. R-2 requires churches have a 15 foot side yard while B-1 has a 10 foot side yard. Both R-2 and B-1 have the same 20 foot rear (20% of lot depth.) The existing church probably would meet the front yard setback for R-2 as it appears equal setback to the houses to the west. It does not meet the rear setback for either R-2 or B-1. The church building has a larger setback on the sides than a typical residence, but it is unknown if it meets the R-2.

The church lacks parking and long term could be converted to another use. It could potentially be converted to a residential use in the R-2 zoning either through renovation or new construction. Given it's location next to the restaurant drive-thru, any residential use would probably be of a special permitted use, such as a day care or assisted living. The lot is quite small and the building covers quite a bit of the lot. Residential use on this property could have less impact on the existing house to the west, than if this building were demolished and used for an intensive commercial use.

The other B-1 to R-2 lot is a single family house at 842 S. 48th Street, south of Randolph. To the north of this property is a single family house zoned B-1, which is between this property and a convenience store and car wash on Randolph. The lot to the north (834 S. 48th St.) was initially in this application, but was later removed by the applicant. The lot in this application (842 S. 48th St.) is occupied by a single family house that is zoned half B-1 Local Business and half R-2 Residential. It is definitely inappropriate to have a zoning line divide a house in half. Approval of this

application would more appropriately have the entire house zoned R-2, similar to seven other houses on the east side of 48th Street north of D Street.

19. B-1 Local Business to R-4 Residential along both sides of 47th Street, south of Randolph are lots that are occupied by multi-family uses including duplexes, a three-plex, six-plex and a small part of a 128 unit apartment complex. The B-1 Local Business zoning is inappropriate along this street. The current zoning does not match land uses or lot lines. The B-1 zoning arbitrarily slices off a corner of an apartment complex owned by Tabitha on the west side of 47th and includes some of the residential uses on the west side. There are no commercial uses on 47th Street. It appears the B-1 zoning line is a decades old and was not based on existing land uses.

This proposed change would zone this multi-family area to R-4 Residential, the same zoning as the remainder of the Tabitha Village apartments and the rest of the multi-family uses on the east side of 47th Street. Technically, the B-1 zoning district does not allow first floor residential. The B-1 also doesn't allow elderly retirement housing by special permit which allows for a substantial increase in density. This 128 unit complex was approved in 1970 by Special Permit #503. By having the entire lot zoned R-4, the project would come closer to conforming to today's standards. Though by today's standards, even if the entire 4.56 acre project was zoned R-4, it could probably only been approved for approximately 114 units, assuming a 80 percent bonus based on construction standards. If part of the lot were zoned B-1 the number of allowed units would be even less.

20. R-5 and R-6 to R-2 Residential occurs in three places in the proposal. All of the R-5 and R-6 zoning are definitely "spots" of zoning which are of a different use and zoning than the surrounding property. These spots of zoning include only 1 or 2 lots on a block while the rest of the block is zoned R-4. This has allowed the owners to build a 3 or 4 plex, while the rest of the block was single family or two family uses. This type of zoning pattern should be discouraged. The proposal is for these uses to be zoned R-2 like the rest of the block. The multi-family uses would be classified as non-standard and if they were destroyed, they could be rebuilt by right if they could meet the new required setbacks of 25 foot front yard and 10 foot side yard. They would also have the option to apply for a special permit to request the previous setbacks.

Previous Opposition

21. Two property owners previously requested their lots be excluded from the R-4 to R-2 portion of the change of zone. Tim Otto requested that two existing duplexes at 4101 and 4107 F Street remain R-4. The downzoning and the proposed Change of Zone #06048 would not have a significant impact on these existing duplexes. All of

the other land on this block would be zoned R-2. The south half of this block is already zoned R-2.

22. Rebecca Cast asked that 4025 and 4045 G Street be excluded. Her letter explained that they had specifically replatted the lots around these properties in 2002 in order to offer them for sale as duplex lots. If zoned R-2, they would not have enough lot area for duplexes, but the existing houses could be removed and new single family units be built instead.

It would be a poor zoning pattern to leave two lots zoned R-4 with a block that would be all R-2 otherwise. To the west of these two lots is a single family use, with a 4 plex zoned R-5 on the corner lot on this block face.

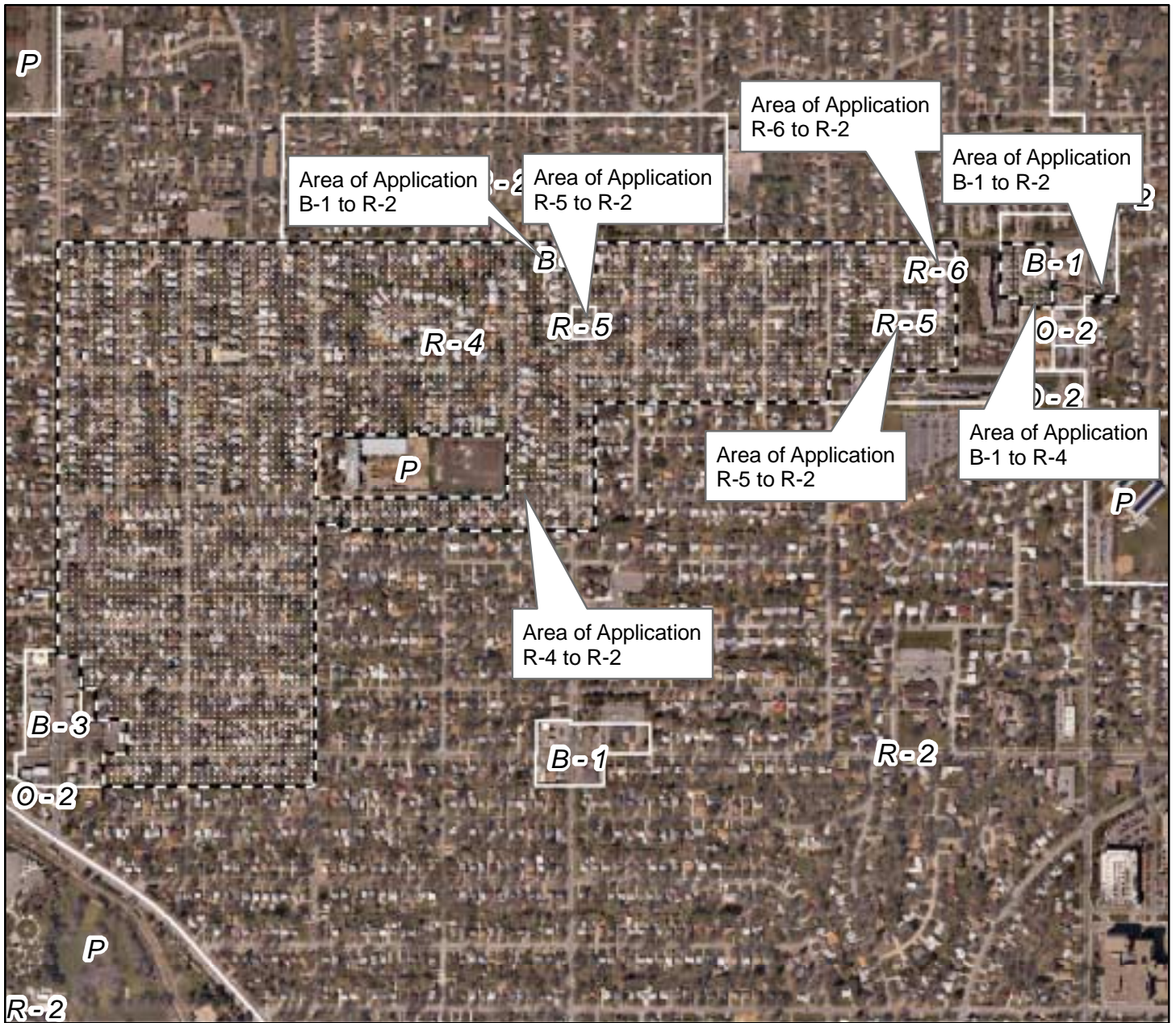
23. Earl Visser has requested that two lots, one at 3333 A (owned by Heath Merrigan) and 3345 A Street (owned by Mr. Visser) not be rezoned from the R-4 to R-2 and instead be zoned R-T Residential Transition for future office use. The applicant did not agree to include the R-T zoning in their application because it would have further delayed their process and required re-advertising and notification of the more intensive use. It would be more appropriate to review the "upzoning" request as part of a separate application. The R-T has not been legally advertised nor discussed at any of the neighborhood informational meetings.

Prepared by:

Stephen Henrichsen, AICP shenrichsen@lincoln.ne.gov
Planning Department, (402) 441-6374

Date: August 21, 2006

Applicant and Contact: 40th & "A" Street Neighborhood Association
Tracy Line
1001 South 37th Street
Lincoln, NE 68510
402.310.7069



Change of Zone #06040 As of August 1, 2006

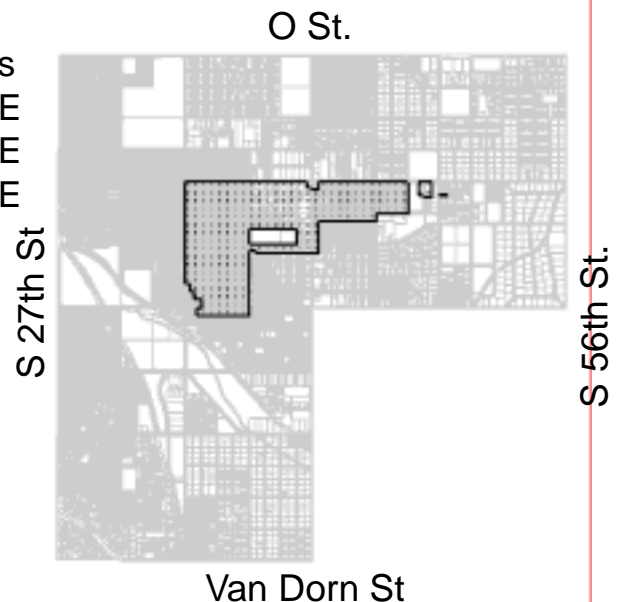
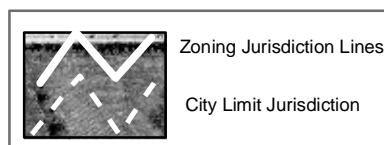
40th & A Neighborhood Downzone

2005 aerial

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

Three Square Miles
 Sec. 29 T10N R07E
 Sec. 30 T10N R07E
 Sec. 31 T10N R07E



	R-2	R-4	R-5	R-6
Lot area , single family	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	4,000 sq. ft.
Lot area, two family	5,000 sq. ft. / family	2,500 sq. ft. / family	2,500 sq. ft. / family	2,500 sq. ft. / family
Lot area, townhouse	N/A	N/A	2,500 sq. ft. / family	2,500 sq. ft. / family
Lot area, multiple-family	N/A	N/A	1,500 sq. ft. / unit	1,100 sq. ft. / unit
Avg. lot width , single family	50 feet	50 feet	50 feet	50 feet
Avg. lot width, two family	40 feet / family	25 feet / family	25 feet / family	25 feet / family
Avg. lot width, townhouse	N/A	N/A	20 feet / family	20 feet / family
Avg. lot width, multiple-family	N/A	N/A	50 feet	50 feet
Front yard , single-family	25 feet	25 feet	25 feet	20 feet
Front yard, two family	25 feet	25 feet	25 feet	20 feet
Front yard, townhouse	N/A	N/A	20 feet	20 feet
Front yard, multiple-family	N/A	N/A	20 feet	20 feet
Side yard , single family	5 feet	5 feet	5 feet	5 feet
Side yard, two family	10 feet, 0 at common wall	5 feet, 0 at common wall	5 feet, 0 at common wall	5 feet, 0 at common wall
Side yard, townhouse	N/A	N/A	10 feet, 0 at common wall	5 feet, 0 at common wall
Side yard, multiple-family	N/A	N/A	7 feet, 10 if over 20 feet in height	7 feet, 10 if over 20 feet in height
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

From B-1 Local Business District to R-2 Residential District

on property legally described as the N ½ of Lot 9, Block 2, Linwood, located in the SE 1/4 of Section 29-10-7, and West 57.97' of the North 100' of Lot 1, Riley and Whitney's Subdivision (of Lot 19) in the NE 1/4 of Section 31-10-7;

From B-1 Local Business District to R-4 Residential District

on property legally described as 158 and 175 I.T., and a part of 243 I.T., all located in the SW 1/4 of Section 29-10-7;

From R-6 Residential District to R-2 Residential District

on property legally described as Lot 2 and northern 25' of Lot 3, Block 1, Turner's Randolph Addition in the SW 1/4 of Section 29-10-7;

From R-5 Residential to R-2 Residential District

on property legally described as Lots 5 and 6, Block 5, Martin Heights, and Lots 17 and Southern 30' of Lot 18, Block 1, Turner's Randolph Addition in the SW 1/4 of Section 29-10-7;

From R-4 Residential District to R-2 Residential District

on property legally described as Lots 1-12, Block 1; Lots 1-12 and all of the vacated east/west alley, Block 2; Lots 1-12 and all of the vacated east/west alley, Block 3; Lots 1-4 and 7-12, Block 4; Lots 4 and 7-12, Block 5; Lots 1-12 and all of the vacated east/west alley, Block 6; Lots 1-6 and 10-12, Block 7; Lots 1-12 and all of the vacated east/west alley, Block 8; Lots 1-6 and the N1/2 of the vacated east/west alley adjacent thereto, Block 9; Lots 1-6 and the N1/2 of the vacated east/west alley adjacent thereto, Block 10; Lots 1-6, Block 11; Lots 1-6, Block 12, Lots 5-8, Block 13, Martin Heights; Lots 1 and 2, Martin Heights 1st Subdivision; Lots 1 and 2, Martin Heights 2nd Addition; Lots 1 and 2, Martin Heights 3rd Addition; Lot 1, Southern 25' of Lot 3, Lots 4-16, northern 20' of Lot 18, Lots 19-24, Block 1; Lots 1-26, Block 2, Turner's Randolph Addition; Irregular Tracts 132, 244, and 245, all located in the SW 1/4 of Section 29-10-7, Lancaster County, Nebraska, and Lots 1-24, Block 1; Lots 1-24, Block 2, Fair Hill Subdivision; Lots 3-24, Block 1; Lots 1-24, Block 2; Lots 1-24, Block 3; Lots 1-24, Block 4, Fair Hill 2nd Addition; Lots 1-24 and all of the vacated north/south alley, Block 1; Lots 1-24, Block 2, Fair Hill 3rd Addition; Lots 1 and 2, Fair Hill 4th Addition; Lots 1-150, 153-206, and 219-240, Boulevard Heights; Lots 1-10, Block 1; Lots 1-12, Block 2; Lots 1-12, Block 3, Maple Grove; Lots 1-4, Block 1; Lots 1-8, Block 2, Randolph Terrace; Lots 1-3, Block 1; Lots 1-5, Block 2, Randolph Terrace 2nd Addition; Lots 1-8, Randolph Terrace 3rd Addition; Lots 1-4, Randolph Terrace 4th Addition; Lots 1-5, Randolph Terrace 5th Addition; Lot 1 S131.17', the Remaining Portions of Lots 2 and 3, Lots 4-6, and the Remaining Portions of Lots 7-10, Riley and Whitney's Subdivision (of Lot 19); Lots 1-12, Johnson and Schafer Replat; Lots 1-12, Linden Terrace; Lots 1-6, Block 1, Brownbilt; Lots 1-5, Block 11, Brownbilt 2nd Addition; Irregular Tracts 85, 88, 96, 99, 103, 104, 108-111, 114-116, 126, 128, and 130-136, all located in the SE 1/4 of Section 30-10-7, Lancaster County, Nebraska, and Lots 7 and 8, Block 4, Marydell; Lots 1-12, Block 3; Lots 1-6, Block 4, East Lawn Terrace, all located in the NE 1/4 of Section 31-10-7, generally located between 40th and 48th Streets, from Randolph to "A" Streets.

1001 S. 37th Street
Lincoln, NE 68510

May 31, 2006

Greg Czaplewski
City of Lincoln—Lancaster County Planning Department
555 S. 10th Street, Suite 213
Lincoln, NE 68508

RE: 40th & A Neighborhood Association Down Zoning Purpose Statement

Dear Greg:

The 40th & A Neighborhood Association is requesting a change of zone for the portion of our neighborhood bordered by A to Randolph, from 33rd to 37th; D to Randolph, from 37th to 40th; F to Randolph from 40th to 48th Streets. (See enclosed map.)

The majority of the properties in this section are currently zoned R-4. Two parcels are zoned R-5 and one R-6. The section outlined above also contains Randolph Elementary School, which is zoned Public, as well as a handful of businesses located on the outskirts that vary between B-3 and B-1. We do not wish to change the zone of the school; however, a couple of the properties currently in a business designated zone we would like changed to residential to more accurately reflect their current use.

The main purpose behind our change of zone application is to protect the residential characteristics of our neighborhood. Traditionally, our neighborhood has been comprised primarily of single-family houses that are owned by the people who live in them. Because of the larger square footage on some of the older dwellings, several homes within this section of our neighborhood have been transformed into duplexes recently. Our residents have noticed the increased population density and the problems it creates such as more on-street parking as well as the shift from a neighborhood made up of homeowners to one made up of renters.

Our neighborhood understands this change in zone would not eliminate multiple family dwelling units. In fact, South 38th Street Court and South 39th Street from Randolph to D largely consist of duplexes. While this area is by and large rental, the average tenant turnover is low and the properties are well maintained.

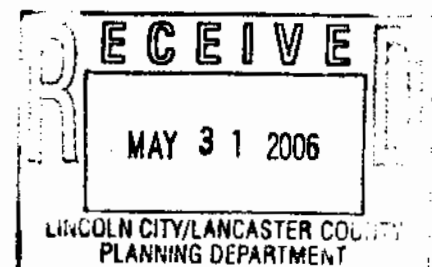
To our knowledge, there are not any associated applications or projects related to our application.

Included in our application packet, please find our application and fee, a map from the City of Lincoln Urban Development Department outlining the proposed zoning change area as well as a hard copy and an electronic file of property owner names, addresses and legal descriptions of the parcels affected. In addition, I have included copies of correspondence to our neighbors concerning this proposed change, plus signatures and emails from a few of our residents indicating support of the change in zone. We would like to be slated for the Planning Commission meeting scheduled July 5, 2006.

If any additional information is needed, or to notify our neighborhood as to the progress of our application, please feel free to contact me at 310-7069. Thank you for all of your assistance during this process.

Best Regards,

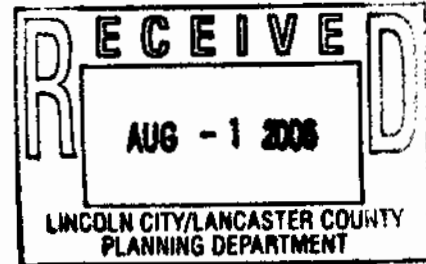

Tracy J. Lines, M.P.A.
President
40th & A Neighborhood Association



4600 Valley Rd
Suite 225
Lincoln, NE 68510

July 28, 2006

Lincoln-Lancaster County Planning Commission
555 S. 10th Street, Suite 213
Lincoln, NE 68508



RE: 40th & A Neighborhood Association Change of Zone

Dear Commissioners:

As you know, the 40th & A Neighborhood Association's application for a change of zone is currently pending before the Planning Commission. It has come to our attention that some members of the Planning Commission are concerned over whether our Association took adequate steps to inform property owners in the affected area about our application.

As an organization consisting largely of property owners, we are keenly aware of the importance of receiving notice of potential government action that will affect one's property. The enclosed timeline sets out the steps we took to ensure affected property owners were made aware of our plan to submit a zoning application and had the opportunity to comment on it. As you can see, our efforts were not, as some have alleged, haphazard and minimal. Rather, we made a comprehensive and concerted effort to ensure that every property owner within the affected area knew the Association planned to apply for a change of zone. Indeed, we went well beyond what was required by the rules in place at the time our application was submitted, and our efforts would have complied with the majority of the additional requirements outlined at the special downzoning committee held on July 19, 2006.

We hope this letter alleviates your concerns about lack of notice. We respectfully request that you (1) rescind the motion to defer the continued public hearing to November 8, 2006; (2) schedule the continued public hearing at the earliest date available (with notice provided by the city planning department); and (3) vote on our change of zone application either with your approval or dissent so we can advance the application to the City Council level.

Best Regards,

Susan M. Dunn
Mary J. Volkmer
Roger L. Hait
Kelly Stahly
Ken W. ...
Willis ...
Jim ...
Kelli Bacon
Tracy ...
Mike ...

40th & A Neighborhood Association Board Members

40th & A Neighborhood Association Change of Zone Timeline

- April 26, 2005** Steve Henrichsen, City Planner, presented Zoning 101 at our Spring Meeting. Spring meetings are open to the general public; landlords, tenants, homeowners or any interested individual can attend.
- Fall 2005** In our fall newsletter that is hand distributed to all residents within our neighborhood association, we announced our intentions to file a change of zone application for the portions of our neighborhood currently zoned R-4 to R-2. The article also gave an overview of what zoning is and the differences between R-4 and R-2. Not only did we call for volunteers to help on the project, but we asked for feedback and concerns. This newsletter was in the initial application packet for our change of zone. Please see Exhibit A.
- February 2006** We reminded our residents of our intent to downzone a portion of our neighborhood in our "Dues News." This newsletter is intended to have residents renew their dues as well as to ask for volunteers. It is mailed to every home, business, and church in our boundaries. This mailing was approximately 2,745 pieces. Please see Exhibit B.
- April 2006** Our spring newsletter is hand delivered to all residents in our neighborhood association. The purpose of the spring newsletter is to invite them to our spring meeting that is open to the general public. The subject of this year's spring meeting was our upcoming zoning application. To address this subject, we had a panel of three speakers well versed on zoning, including a staff member from the city planning department, a former planning commission member and a city council member. The article defined the area to be downzoned as well as how it affected our properties. This newsletter was included in our initial application packet. Please see Exhibit C.
- April 20, 2006** We mailed a letter to all property owners in our targeted downzone area. The letter informed the property owner of the 40th & A Neighborhood Association's intent to file a change of zone application on May 1, 2006 and invited them to our spring meeting with a city planning department staff member and former planning commission member. Definitions of the change of zone were also provided in addition to our purpose of requesting the downzone. A total of 718 letters were mailed. Only 13 of these letters went to out-of-state property owners. Another 19 letters were addressed to property owners outside of the neighborhood association's boundaries. A copy of this letter was included in our initial application packet. Please see Exhibit D.
- April 25, 2006** The 2006 Spring General Meeting was held at Lincoln Medical Education Partnership. A panel of speakers consisting of Greg Czaplewski, City Planning Department, Jonathan Cook, City Council Member and Steve Duvall, former planning commission member and neighborhood resident provide information and answer questions concerning downzoning. At this time, we have only one property owner indicate their opposition, the Cast's, regarding their property at 4045 G. A total of 35 individuals were present.

40th & A Neighborhood Association Change of Zone Timeline Continued

May 2006	<p>The 40th & A downzoning committee reviewed the events of the Spring Meeting. Concerns regarding the Cast's and their property are raised. A discussion with Greg Czaplowski, city planner, indicated that planning practices frown upon "spot zoning." The committee decides to leave the Cast property in the change of zone application.</p> <p>A final review of the downzoning area is undertaken. An attempt to match up current use to current zoning on the boundaries of the proposed change of zone is completed. The Association does not want to affect the present commercial properties.</p>
May 31, 2006	<p>Change of zone application submitted to city planning department with required purpose statement, inventory of property legal descriptions, map of area for proposed changes and \$370 fee.</p>
June 6, 2006	<p>An additional \$370 is submitted to city planning department to ensure our application is heard on the July 5th planning commission hearing.</p>
June 23, 2006	<p>City Planning Department mails out notification letters to property owners in proposed change of zone area as well as 200 feet outside of area. A total of 1,052 letters are mailed; 22 pieces are outside of the city; 24 are out of state.</p>
June 24 - July 7, 2006	<p>Applicant contact, Tracy Lines, spoke to at least 15 property owners as they phone her asking for explanation of the letter received from the City Planning Department. Out of the 15, only 2 are against the change of zone. Joel Bacon, 40th & A Board Member, spoke with one property owner in the affected area; she expressed her support for the change in zone. Board Member Mary Volkmer received 3 phone calls from property owners inquiring about the change of zone application; all three indicated their support.</p>

Association Undertaking Zoning Change

The 40th & A Neighborhood Association is in the beginning phases of downsizing portions of our neighborhood that are currently zoned R4 into R2 districts.

Zoning is used by states to regulate subdivisions of land in order to protect the "health, safety and general welfare" of the public, to implement the community's comprehensive plan and to properly arrange land uses. Simply put, zoning is used to manage development.

The Association feels a need to downsize current R4 sections to protect the residential character of our community. Several neighborhood associations within the city of Lincoln have already completed this

process. They include: Near South, UNI Place, Country Club and Everett.

Zoning codes beginning with an 'R' are Residential Districts. The numbers designate the density with one being the least dense. For instance, a lot within an R1 district has the largest lot size requirement. R1 through R4 zones are primarily for single family homes, townhouses or duplexes.

The main differences between the R4 and R2 districts are lot size and density. R4 lots require 5000 square feet for either a single family or two family residence. A single family home in an R2 district requires 6,000 square feet while a two family dwelling needs 10,000 square feet.

In layman's terms, this zoning change would prevent some of our large, older homes from being converted into duplexes. It would not, however, affect buildings that are currently in use as a two-family residence.

Changing the zoning districts can be a challenging task. The Association requests the neighborhood's input and assistance. If you would like to join the Zoning Committee, help with the process or feel the need to voice a concern regarding this proposal, please contact one of our board members or email us at our new email address: forty_and_a_neighborhood@hotmail.com.

Itch Mites Find A Home in Lincoln

The University of Nebraska—Lincoln entomology department reports that itch mites may again be a problem this summer and fall.

Itch mite bites usually are red, 1/4 to 3/4-inch in diameter, with a hard, raised "pimple" in the middle. The bites are usually found on the

victim's neck and shoulders and on areas of the torso where clothing fits loosely. The bites are intensely itchy, but scratching is actually painful.

The nearly invisible mites need to be in contact for several hours before biting. Because the bites do not itch or get painful for about 16 hours,

many people do not know they have been bitten until the next day.

Bites often occur after raking leaves and mowing lawns under pin oaks, red and black oak trees.

The best defenses are wearing insect repellent and showering immediately after completing yard work.

LeeAnn Sergeant

Licensed Massage Therapist

3544 Mohawk St.
Lincoln, NE 68510

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40TH & A

NEIGHBORHOOD ASSOCIATION

A Letter From The President....

2006 promises to be a busy year for the 40th & A Neighborhood Association. We have many action items on our agenda; however we need our residents to adopt a "Winston Churchill" attitude to help us accomplish our goals.

"I like things to happen; and if they don't happen, I like to make them happen." —Winston Churchill

While some of our projects are annual events that you can count on, such as the Spring Clean-Up and the New Heights/Pathways Ice Cream Social at the beginning of September, the 40th & A Neighborhood Association Board and I have several new projects and events that we would like to accomplish this year.

Perhaps our biggest undertaking is **down-zoning a large section of District 1**. We are interested in accomplishing this project primarily to preserve the residential characteristics of our older neighborhood as well as to address related concerns such as parking and traffic.

We are also considering starting an annual **neighborhood-wide garage sale**. The Association would advertise your garage sale in the local newspapers and provide a map with the location of your sale for a \$5 fee (\$3 if you are a member of the association). We need to know if enough of our residents are interested in participating to make this event worthwhile. Please email us or call one of the board members by March 15th.

I would also like to develop an **email list** to communicate to our neighbors. Send your concerns our way or join our membership list to stay updated on upcoming events and neighborhood concerns. **forty_and_a_neighborhood@hotmail.com** Just send me an email. (We will not share or sell email addresses.)

How can you help? Each project has different needs. We need neighbors to write, phone or email the mayor's office (mayor@lincoln.ne.gov) supporting the existing process for down-zoning. Do you like to research? A comprehensive listing of the legal descriptions for the properties involved on our down-zoning application is required. Do you have a truck to help your neighbors haul their "junk" to the Spring Clean-up? The Spring Clean-up also offers some great opportunities for our Girl and Boy Scout troops to earn merit badges. Need to take the dog for a walk on a nice spring or fall day? Help us deliver newsletters to your block! Do you like to talk to people? We need volunteers to man our booths at the annual ice cream social and Celebrate Neighborhoods events.

Don't have any time to volunteer? Your dues contribution makes a difference as well. The fee to apply for down-zoning is almost \$400. Most of our dues monies pay for printing of newsletters to keep the neighborhood informed. **In 2005, our Association was pleased to have 22 businesses, 4 churches and 3 schools as members.** Will you please consider joining us?

Let's make things happen this year for our neighborhood association!

Tracy J. Lines, M.P.A.

—President, 40th & A Neighborhood Association

2006 40th & A Neighborhood Association Membership Form

Name: _____ Address: _____

Phone: _____ Email: _____ District #: _____

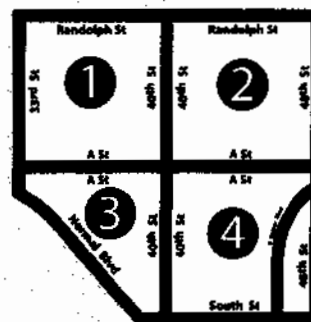
I want to help make things happen!

I am interested in donating my time to:

- ☐ Deliver newsletters
- ☐ Spring Clean-up
- ☐ Serve on the Board
- ☐ Ice Cream Social
- ☐ Zoning
- ☐ Garage Sales
- ☐ Plant trees
- ☐ Celebrate Neighborhoods!
- ☐ Other _____

Annual Membership Dues:

Student.....\$1.00
Individual\$5.00
Family.....\$10.00
Business.....\$15.00
Contributing\$25.00



Make checks payable to:
40th & A Neighborhood
Association

**Send all address changes
and membership forms to:**

Susie Dunn
4000 Garfield
Lincoln, NE 68506

Office Use Only

Check No: _____
Date Rec'd: _____
Cash: _____

40TH & A

NEIGHBORHOOD ASSOCIATION

Spring 2006

Upcoming Zoning Petition Subject of Spring Meeting

The 40th & A Neighborhood Association has been gathering information, planning and working on a petition to downzone the existing R-4 portions of our neighborhood to R-2 for the past six months. We are nearing the end of our preparation phase and are ready to "spring" into action.

To inform our residents of the proposed zoning changes, their meaning and the effects on our neighborhood, our annual spring meeting will feature a panel of speakers including a city planning department representative and former planning commission member to present information and answer questions.

The meeting will be held on **Tuesday, April 25th at 7 p.m.** at

the Lincoln Medical Education Partnership's Steven Carveth Center at 4600 Valley Road.

The area presently zoned R-4 is from A Street to Randolph, 33rd to 37th and D Street to Randolph from 37th to 48th (see map).

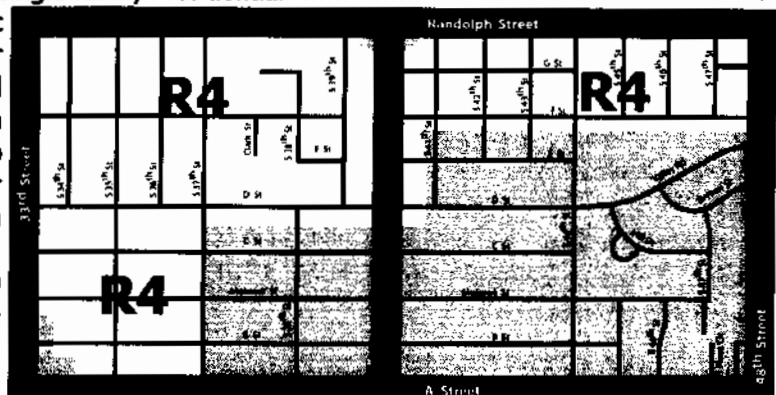
The proposed zoning change will protect our single-family residential

characteristic of our neighborhood by requiring a larger lot to convert or construct a duplex.

Existing multiple family housing units (such as

duplexes) will be considered a non-standard use; this will not require a special permit, only a building permit to enlarge, extend or reconstruct the current building.

To find out more or to have your questions answered, please be sure to attend the meeting on April 25th.



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Annual Spring Clean-Up Set For April 22

Once again the 40th & A Neighborhood Association will be sponsoring a neighborhood clean-up. Rain or shine, we will be accepting your household waste on April 22nd from 8 a.m. to 12 p.m. The Christ Lutheran Church at 4325 Sumner has graciously allowed us to utilize their large parking lot for the event.

Roll-offs will be available for regular debris as well as one designated for tree limbs and other brush. Remember, we cannot accept any grass, leaves, tires, large appliances, garbage, TV's, batteries, solvents or other hazardous waste. (If you have hazardous waste items, the hazardous waste collection dates and locations are listed on the back page of this newsletter.)

Please remember that we still are recycling aluminum at the Church of the Brethren at 3645 Sumner. The proceeds from this recycling effort help fund activities such as this one.

Our goal is to help make our neighborhood look great. Spring is a great time to spruce up the yard and dispose of that broken down fence or those railroad ties that you have been meaning to do something about. Already have your yard in tip-top shape? Perhaps a neighbor or elder could use your assistance. Places commonly overlooked are alleys and common areas. Let's all do our part to make our little part of the city a great place to live!



Dear Neighbor:

This letter is to let you know about an important project the 40th & A Neighborhood Association is undertaking and the impact it may have on your property. One of the purposes of the Association is to maintain the low density residential character of our neighborhood. Traditionally, our neighborhood has been made up primarily of single-family houses that are owned by the people who live in them. But as you have probably noticed, several single-family homes in our neighborhood have recently been transformed into duplexes. This increases population density, creates parking problems, and shifts our neighborhood from one made up of homeowners to one made up of renters. To limit this transformation, the Neighborhood Association, by May 1, 2006, plans to file an application to downzone the portion of our neighborhood currently zoned as R-4 to R-2. Your property is located in the area that would be affected if the City of Lincoln approves the application.

Were the application approved, it would greatly reduce the ability of a homeowner to transform a single-family home into a duplex. For example, under an R-4 designation, a duplex is permitted so long as the lot area is 2,500 square feet per family and the average lot width is 40 feet per family. In contrast, under an R-2 designation, the lot area must be 5,000 square feet per family and the average lot width must be 40 feet per family. Other differences also exist between R-2 and R-4. If you are interested, you can see what these differences are by comparing Lincoln Municipal Code Ch. 27.13 (R-2) and Lincoln Municipal Code Ch. 27.17 (R-4), which is available at "<http://www.lincoln.ne.gov/city/build/inspec/zoning/zoningcodes.htm>."

We wish to emphasize, however, the limited effect that downzoning would have on property currently being used in a fashion that does not comply with R-2. If you currently use your property in a manner which does not conform to the requirements of R-2, you will be able to continue to do so even if the application is approved. This means that if you currently own a duplex on a lot that does not have 5,000 square feet per family, you will not be required to revert to a single-family dwelling should the application be approved.

We invite you to share your thoughts on the application with us. You can email comments and concerns to forty_and_a_neighborhood@hotmail.com. Additionally, the 40th & A Neighborhood Association's biannual meeting is on Tuesday, April 25, 2006 at 7:00 p.m. The meeting is open to the public, and there will be a panel of speakers to answer questions about zoning from the City's Planning Department as well as a former Planning Commission member. The meeting will be held at the Steven G. Carveth Center in the LMEP building, which is located at 4600 Valley Road. We strongly encourage you to attend.

Thank you for your attention to this important matter, and we look forward to hearing from you.

Sincerely,

Tracy J. Lines, M.P.A.
President
40th & A Neighborhood Association